

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CLERK OF COURT
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MANUEL ARECHE,
Petitioner,

v.

MICHAEL THOMPSON,
Respondent.

Civil Action No. 05-11121-MEL

MANEUL ARECHE'S RESPONSE AND OBJECTION TO
RESPONDENT'S MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS AS TIME-BARRED

NOW COMES Maneul Areche, in the above captioned and numbered matter and replies and objects to the respondent's motion to dismiss on the following grounds:

It is correct that the conviction was had as alleged. However, Manuel Areche filed for Rule 30 relief to withdraw his plea as the plea bargain was violated.

A timely appeal was taken to the Massachusetts Appeals Court as well as the Supreme Judicial Court. This appeal flows timely from the denial of further appellate review by the Supreme Judicial Court.

The Supreme Court of the United States has recognized that Massachusetts allows a Rule 30 action to be initiated at any time, there is no time limit, see Herrar v. Collins, 506 U.S. 390 (1993).

Since this appeal is timely from the filing of the Rule 30 motion for relief, the AEDPA does not adversely affect Manuel Areche's filing.

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WHEREFORE, Manuel Areche moves this court to deny the respondent's motion to dismiss this habeas corpus action as time barred and for any and other relief as may seem just and equitable to this court.

Dated: June 6, 2005

Respectfully submitted,



Manuel Areche, pro se

CERTIFICATE OF SERVICE

I, Manuel Areche, hereby certify that I have caused a copy of the foregoing motion to be delivered to Susanne B. Reardon, Asst. Atty. Gen. at her address of One Ashburton Place, Boston, MA 02108, this 6th day of July, 2005, with adequate first class postage attached.



Manuel Areche, pro se
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